

Request for Continued Examination, Amendment and Response to Final Office Action
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REMARKS

In the Final Office Action mailed on January 12, 2007 (“the Final Office Action”), claims 1-37 stand rejected. Claims 1-19 stand rejected under 35 U.S.C. § 101 as directed to non-statutory subject matter. Claims 1-37 stand rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 6,460,020 (“Pool”) in view of U.S. Patent No. 7,024, 383 (“Mancini”). Claims 1, 3, 6, 8, 10-11, 15-20, 22, 25, 27, 29, 31 and 33-37 have been amended. Claims 13-14 have been canceled.

Support for the claim amendments can be found throughout the specification, for example, at Figures 2-4, 5A, 5C, 5G, 5I, and 6, Paragraphs [0028], [0033]-[0034], [0045]-[0047], [0085]-[0086], [0088], [0092], [0094], and [0096]-[0098].

Applicants respectfully request reconsideration and continued examination in light of the amendments and remarks herein.

Claim Rejections

Rejection of Claims 1-19 under 35 U.S.C. § 101

Claims 1-19 were rejected under 35 U.S.C. § 101 because, as stated in the Final Office Action, “the claimed invention is directed to non-statutory subject matter.” The rejection was supported based on the asserted reason that “Claims 1 and 19...lack a tangible result...[and] that the focus of this analysis is on the result, not the individual steps.” The Final Office Action further states “[w]ith respect to a tangible result, the process must produce a real-world result.”

Applicants note that the rejection under 35 U.S.C. § 101 was raised for the first time in the Final Office Action and was not necessitated by Applicants’ amendments or

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an Information Disclosure Statement submitted pursuant to 37 C.F.R. § 1.97. Without conceding the correctness or propriety of this rejection, Applicants have amended claims 1 and 19 to more specifically recite a “computerized method.”

Applicants respectfully submit that Applicants’ claims as amended recite statutory subject matter. As amended, Applicants’ claims 1 and 19 recite a computerized method for monitoring business transactions, the tangible, real-world result of which is exchange of an amount in first currency into an amount in a second currency. *See* 35 U.S.C. § 101 (“Whoever invents or discovers any new and useful process...may obtain a patent therefor...”) (emphasis added); *State Street Bank & Trust Co. v. Signature Financial Group*, 149 F.3d 1368 (Fed. Cir. 1998); *Ex parte Lundgren*, Appeal No. 2003-2088 (B.P.A.I. 2004). Because Applicants’ claims recite an actual conversion of currency from a first currency (e.g., U.S. dollars) into a second currency (e.g., pounds sterling), Applicants respectfully submit that Applicants’ claims recite statutory subject matter. Accordingly, Applicants respectfully request withdrawal of this ground of rejection.

Rejection of Claims 1-37 under 35 U.S.C. § 103(a)

Claims 1-37 stand rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 6,460,020 issued to Pool et al. (“Pool”) in view of U.S. Patent No. 7,024,383 issued to Mancini et al. (“Mancini”). Applicants respectfully traverse.

For the rejection under 35 U.S.C. § 103(a) to be proper, the references taken as a whole either alone or in combination must teach or suggest every element of the claimed invention. Applicants respectfully submit that neither Pool nor Mancini either alone or in combination teach or suggest every element of the claimed invention.

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Neither Pool nor Mancini taken as a whole alone or in combination teach or suggest at least the following elements recited by Applicants' independent claim 1:

“generating by the hedging processor public price information...based on public price information provided by a plurality of foreign exchange (FX) rate providers”;

“generating by the hedging processor hedging instruction information to provide instructions on whether to exchange from said first type of currency to said second type of currency, based on said hedging rules”; or

“forwarding the hedging instruction information to one of the plurality of FX rate providers.”

Similarly, at least the following limitations of independent claim 19 are neither taught nor suggested by Pool alone or in combination with Mancini:

“generating by the hedging processor public price information...based on at least one of a predetermined foreign exchange rate received from a plurality of foreign exchange (FX) rate providers”;

“generating hedging instruction information by the hedging processor to provide instructions to a FX rate provider from the plurality of FX rate providers”; or

“transmitting the hedging instructions to the FX rate provider to exchange from the first type of currency to the second type of currency.”

Similarly, neither Pool nor Mancini either alone or in combination teach or suggest at least the following limitations of independent claims 20 and 37:

“at least one input...for receiving public price information from a plurality of foreign exchange (FX) rate providers or FX liquidity providers...”

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“a processor for generating public price information...and for generating hedging instruction information to provide instructions to an FX rate provider from the plurality of FX rate providers or FX liquidity providers...wherein the FX rate provider exchanges the first currency into the second currency based on said hedging instructions.”

For at least these reasons, Applicants submit that the pending independent claims should be allowable. By virtue of their dependency on Applicants' allowable independent claims, the pending dependent claims are also submitted to be in condition for allowance.

Pool is directed to a universal shopping center for international operation. The shopping center of Pool “provides a pre-transactional calculation of all charges involved in any international transaction.” Abstract. In response to a customer selecting goods and a currency in which to pay for the goods, the price of goods is converted from the currency of the goods as advertised into the currency in which the customer wishes to pay for the goods. Col. 5, l. 58 – col. 6, l. 3. The universal shopping center of Pool freezes the conversion rate for a particular point in time, and a small percentage of the transaction cost is added to the conversion rate to account for changes in the conversion rates. Col. 6, ll. 4-19. If the advertised currency and the customer-selected currencies are undergoing wide fluctuations, an alarm is activated that suspends trading. Col. 6, ll. 20-36.

The universal shopping center of Pool does not address currency exchange but is instead directed to converting the cost of goods actually presented to the a customer in a particular transaction from a first currency to a second currency based on equivalency of

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the two currencies. After goods are priced by the seller in the first, advertised currency, the user selects the goods for purchase and the desired currency in which the user would like to pay. Col. 5, l. 58-col. 6, l. 19. The conversion occurs, and the customer is informed of the price of the goods in the customer-selected currency, based on an equivalent currency conversion rate for the two currencies. In the universal shopping center of Pool, the price of the goods is not based in the first instance on the foreign exchange rates of the two currencies, and the price of the goods is not updated or changed to reflect pricing rules. Moreover, nowhere in Pool is the concept of exchanging currencies discussed.

Moreover, Pool does not teach or suggest the use of hedging instructions that define the rules for exchanging currencies (rather than the purchase of goods) as recited in Applicants' claims. The concept of hedging instructions does not appear to be contemplated by Pool at all. Pool seeks to address volatility in currency conversion rates by adding a cushion to protect the seller by adding a percentage of the transaction cost to the conversion rate, but not by determining an appropriate time to exchange currencies based on hedging rules. Pool is silent regarding receiving public price information from a plurality of foreign exchange (FX) rate providers.

Mancini does not cure the defects of Pool, and neither Mancini nor Pool alone or in combination teach or suggest every element of Applicants' independent claims. The Office Action states that "Currency conversions and hedging currency conversions during actual transactions, in addition to pre-transaction calculations, are old and well-known in the art of international and/or cross-border transactions, as evidenced by Mancini...It

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would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Pool by incorporating the ability to handle actual transactions, as disclosed by Mancini, in addition to pre-transaction calculations, as disclosed by Pool, allowing for application of currency conversion and hedging rules throughout the entirety of the transaction process” See Office Action of January 12, 2007, page 4.

Mancini is directed to minimizing risk in an on-line sales system to prevent loss associated with currency fluctuations. In contrast, Applicants’ system and methods are directed to using currency fluctuations to generate customer-specified hedging instructions to maximize revenue or profits on exchanged currency. Moreover, Applicants’ claims are directed to generating a price based on information received from a plurality of FX rate providers or FX liquidity providers as part of the foreign exchange and hedging process.

An architecture recited by the elements of Applicants’ claims also allows the hedging processor to communicate with a plurality of FX rate providers or FX liquidity providers to receive public price information from each FX rate provider or liquidity provider. The hedging processor can then use or select the price information from the plurality of FX rate providers or FX liquidity providers to provide a price to the customer based on the pricing rules or the customer’s hedging objectives. For example, the hedging processor recited by Applicants’ claims can be used in a clearinghouse or prime brokerage setting such that the customer only deals with the clearinghouse or prime brokerage, and the hedging processor communicates with various FX rate providers or FX liquidity providers (e.g., a plurality of banks) on behalf of the customer. *See*

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Paragraph [0033] and Figure 4. Such an architecture generally improves the customer's margin on foreign currency hedging because the hedging processor generates a price in line with the customer's objectives based on the receipt of price information from a plurality of price sources (e.g., FX rate providers or FX liquidity providers) instead of price information from a single source.

Neither Pool nor Mancini alone or in combination teach or suggest a processor that determines whether to generate a hedging instruction based on hedging rules and then transmitting the hedging instruction to a FX rate provider for actually carrying out conversion from a first currency into a second currency as recited by Applicants' independent claims 1, 19, 20, and 37. Whereas the system of Mancini is directed to minimizing risk associated with trans-national transactions, Applicants' claims are directed to system in which hedging instructions (and subsequent currency conversion) result in a payment of the second currency into a customer account. Such a configuration permits the customer to utilize hedging rules in the customer's business (e.g., to maximize profits) and not only to minimize risk.

Moreover, neither Pool nor Mancini alone or in combination teach or suggest a system whereby a single processor, e.g., a hedging processor, generates both public price information and generates hedging instructions for converting currency. Such a architecture permits the processor to centrally manage both generation of public price information and hedging instructions in response to monitored business transactions of the customer at substantially the same time, which allows for responsive updates to price changes that trigger hedging rules.

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Furthermore, according to Applicants' claims, the hedging processor communicates hedging instructions to the FX rate provider on the customer's behalf to maximize profit from volatile currency exchange events such as fluctuations without further intervention or approval by the customer. In particular, the hedging processor can generate a price based on information from a first FX rate provider, and then transmit hedging instructions to a second FX rate provider (or FX liquidity provider) for converting from a first currency to a second currency.

Neither Pool nor Mancini permit such a configuration. To the extent that Mancini discusses provision of currency hedging and price provision at all, the system of Mancini uses a single "Currency Exchange Institution 314" for generating price information and hedging currency. However, Mancini is silent regarding obtaining price information from a plurality of FX rate providers or FX liquidity providers. In fact, Mancini appears to set the currency exchange price based on historical information between the e-commerce participant and the Currency Exchange Institution 314 rather than from a plurality of price information sources (e.g., FX rate or liquidity providers). *See* col. 2, ll. 32-39. The passage in Pool cited by the Office Action to support this rejection is similarly silent on how price information is generated, and is particularly silent regarding generating price information based on information received from a plurality of FX rate providers. As discussed above, Pool accounts for exchange rate volatility by adding a "cushion" to the exchange rate. *See* col. 6, ll.12-16.

Moreover, neither Pool nor Mancini appear to contemplate the architecture recited by Applicants' claims with price generation and hedging instruction generation handled

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by the same hedging processor (e.g., the hedging engine 15 of Fig. 3). Instead, to the extent that Pool or Mancini disclose price generation and hedging instruction generation functions at all, these functions appear to be distributed among different entities that communicate with each other over an internal network or an external network like the Internet. Unlike Applicants' architecture, such systems are susceptible to network failures or slow-downs. The architecture recited by Applicants' claims, and the unification of price generation and hedging instruction generation by a hedging processor, is not susceptible to the same risks. Moreover, an architecture recited by Applicants' claims permits a single hedging processor to interface multiple customers to multiple FX liquidity providers. *See* Figure 4. This allows the hedging processor to facilitate communication between multiple customers and multiple FX rate providers or FX liquidity providers, and the customers only need to communicate with the hedging processor to obtain access to the plurality of FX rate providers or FX liquidity providers. Moreover, such a system allows the hedging processor to settle trades for both parties to a transaction (e.g., the buyer and seller in the same transaction) because the hedging processor can provide an interface to multiple FX rate providers. The architecture recited by Applicants' claims facilitates use of the hedging processor by a clearinghouse or prime brokerage. *See* Paragraph [0033] and Figure 4.

Hence, neither Pool nor Mancini alone or in combination teach or suggest a method or system in which a hedging processor generates price information and hedging instruction information to provide price information to a customer and hedging instructions to an FX rate provider on whether to exchange from said first type of

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currency to said second type of currency, based on said hedging rules where the FX rate provider performs the currency conversion based on the hedging rules and pays the converted currency into the customer's account as recited by Applicants' independent claims. Moreover, neither Pool nor Mancini alone or in combination teach generating price information based on public price information received from a plurality of FX rate providers or FX liquidity providers. For at least these reasons, Applicants respectfully submit that claims 1, 19, 20, and 37 are allowable. Claims 2-12 and 15-18 depend directly or indirectly from claim 1, and Applicants believe that these claims also define patentable subject matter. Claims 21-36 depend directly or indirectly from claim 20, and Applicants believe that these claim also define patentable subject matter.

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CONCLUSION

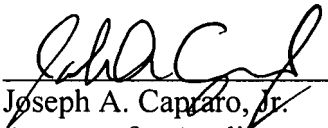
Applicant respectfully submits that all pending claims are in condition for allowance and request entry of the above claim amendments and withdrawal of the pending rejections. If the Examiner believes a telephonic interview would expedite the prosecution of the present application, the Examiner is welcome to contact Applicant's Attorney at the number below.

The Commissioner is hereby authorized to charge any fee occasioned by the entry of this paper to Attorney's Deposit Account No. 50-3081.

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Respectfully submitted,



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